



10/726,325

PATENT

DAE

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kai Desinger et. al	Examiner:	
Serial No.:	10/726,325	Group Art Unit:	3736
Filing Date:	December 1, 2003	Docket No.:	3001
Title	Medical Products With Limited Use Aspect		

Date of Deposit: 12-9-04

I hereby certify that this paper is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Office of Petitions, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Signature: Mary S. Keller

Printed Name: Mary S. Keller

Petition Under 37 C.F.R. § 1.78(a)(3)

Office of Petitions  
Commissioner for Patents  
Alexandria, VA 22313

The Applicant respectfully petitions to claim priority to PCT/EP02/05766, having an international filing date of May 24, 2002. The reference identifying the prior-filed application by international application number and international filing date was unintentionally delayed.

This Petition is accompanied by:

- 1) The reference required by 35 U.S.C. §120 and paragraph 37 C.F.R. § 1.78(a)(2) to the prior-filed application;
- 2) The surcharge set forth in 1.17(t); and
- 3) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional.

### **Reference to PCT Application**

The present application is a continuation application of PCT/EP02/05766, having an international filing date of May 24, 2002. The Applicant encloses a preliminary amendment to add a sentence at the beginning of the present application to include this reference.

### **Statement Regarding Delay**

The undersigned represents that the entire delay between the date the priority claim was due and the date of this petition was unintentional. The undersigned hereby declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

### **Propriety of Priority**

The Applicant submits that a priority claim to PCT/EP02/05766 is appropriate since the present application has at least one inventor in common with PCT/EP02/05766 and was filed during the pendency of the PCT application.

### **Priority Claim to DE 101 26 950.1**

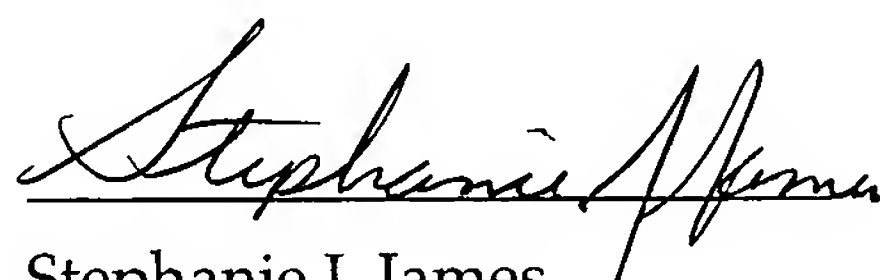
The Applicant notes that the application as filed included a claim of priority to DE 101 26 950.1, filed June 1, 2001. This claim has been acknowledged by the Office on the filing receipt.

**Publication**

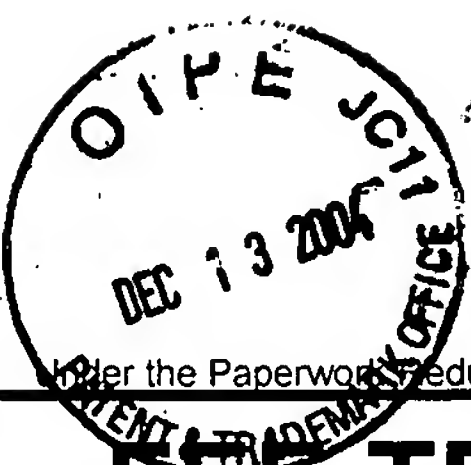
The Applicant notes that the present application has been published June 10, 2004. Thus, policy against late claims to priority would not be thwarted by granting this petition.

Respectfully submitted,  
Kai Desinger,  
By his attorneys:

Date: 12/9/04



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# FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 1,370.00

## Complete if Known

Application Number	10/726,325
Filing Date	12/01/2003
First Named Inventor	Kai Desinger
Examiner Name	
Art Unit	3736
Attorney Docket No.	3001

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit  
Account  
Number  
Deposit  
Account  
Name

500246

Beck & Tysver, P.L.L.C.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)				(\$ )	

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below		Fee Paid
Independent	Multiple Dependent	-20** =	-3** =	X		

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ )

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	
1403	00	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	1370.00
1501	1,370	2501	65	Utility issue fee (or reissue)	
1502	40	2502	245	Design issue fee	
1503	60	2503	30	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ ) 1370.00

## SUBMITTED BY

(Complete (if applicable))

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(Attorney/Agent)

34,437

Telephone 612-915-9633

Signature

*Stephanie J. James*

Date

12/9/04

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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